

proposed amendments, particularly those that would allow the court to assess compliance with minimization procedures used to target foreign terrorists. For example, amendment Nos. 3920 and 3908, and would require the court to determine the good faith of those providers who allegedly assisted the Government with the Terrorist Surveillance Program. As examples, amendment Nos. 3919 and 3858.

In conclusion, I offer these observations mainly to ensure the record reflect the legislation departs from FISA's original intent in a deliberate and carefully tailored manner. While there are some practical considerations, including a desire for a strong bipartisan bill, that have driven the need for this legislation, we should be extremely careful about adding new or changing existing provisions in the bill that could negatively impact the operational effectiveness of our intelligence community or provide unwarranted protection to overseas terrorists and spies.

Mr. President, I will not propound a unanimous consent request now, but I advise my colleagues that if we cannot reach agreement, I will ask unanimous consent that all amendments to the FISA bill be brought up and decided at a 60-vote threshold so we can move forward on this important legislation. I am not making that request now. I alert my colleagues on the other side of the aisle, I hope that will not be necessary, but we have not had a response to our proposal on how we move forward. We have been at this a week now, and we only have, at best, two full working weeks before we go on recess. We must get this bill done, sent to the House, conferenced, and passed before we leave for the President's Day recess. Failure to do so could leave our intelligence community without the tools they need and, thus, America without the protection it needs.

I yield the floor.

THE PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Colorado.

#### ADDRESSING THE ISSUES

Mr. SALAZAR. Mr. President, when we looked back at the work of this Chamber at the end of 2007, we saw this Chamber coming together in a bipartisan way to garner what was 82 votes for the passage of the 2007 farm bill. It is an example of Republicans and Democrats working together to address a fundamental need of America, and that is the issue of food security.

Last night, we heard the President of the United States address the Nation on the state of the Union, in which one of the things he talked about was the importance of moving forward with an economic stimulus package. That economic stimulus package, which has been negotiated at least with the House of Representatives on a bipartisan basis, is another example of when people are willing to work together, we can actually get some business done.

That is what we should be doing in this Chamber today. We should be working through amendments with respect to improving the Foreign Intelligence Surveillance Act in order for us to get that legislation finally approved. What we are up against, frankly, is an unwillingness on the part of the Republican minority to allow us to move forward to get to final passage of this bill in a way that would consider relevant and germane amendments that would make it better, in a way that would address the absolute need to protect the cherished civil liberties of Americans.

Those are the kinds of amendments with which we ought to be dealing. But instead, we are faced with a filibuster.

I hope we can act on this legislation and then move on to the urgent needs the people of America have brought us here to work on, on their behalf. We heard the President last night talk about the economic issues that face America.

In my view, when I look at my State of Colorado, I believe the economy is skating on very thin ice. We see it in a lot of different ways. We see it in rising gas prices. We see it in the extraordinary health care costs people have to pay. We see it with respect to the housing crisis we are facing in my State and across America.

When I think about my State, maybe it is a small State in comparison to the great States of New Jersey, New York, and others, but there are 5 million people in my State who I believe are very concerned with what is happening with housing in Colorado. That is because 1 out of every 376 homes today in the State of Colorado is in foreclosure. If 1 out of 376 homes is in foreclosure today, I would venture that probably 90 percent of the homes in Colorado have seen a very significant decline in their value over the last 2 years.

So, yes, the people of America are very nervous about what is happening with the economy, and it is our responsibility, therefore, to move forward with an economic stimulus package that will address that economic uncertainty. I am hopeful that with the leadership of Senator BAUCUS and Senator GRASSLEY and my colleagues on the Finance Committee, we will be able to get to a markup of legislation that can reach the floor of the Senate tomorrow evening, perhaps the next day, that will be that jump-start to the economy we need.

There is broad agreement on what that legislation will do. It will put money into the pockets of the consumers of America so it can help stimulate the economy. It will create initiatives for small businesses, which are so much of the economic engine of America, to go out and invest in equipment and growth so we can create jobs for people of this country.

We will move forward with a package that will also include extending unemployment benefits and also include in that making sure 20 million seniors who were left out of the House stimulus package are also included.

There will be other provisions that will come forward. So it is important we get beyond the legislation we are dealing with now with respect to FISA so we can work on those short-term economic issues. And having worked on those economic issues, which I hope we are able to do in a bipartisan fashion, then we will have the opportunity, hopefully, to work on the other legislation that addresses the longer term security needs of America.

In that long-term economic set of issues I believe we have to address, we have to, first of all, get the farm bill which garnered, I believe, 82 votes in the Senate, across the finish line so we can guarantee the food security of America for generations to come. It is the best farm bill, in my view, that has come out of this Senate Chamber, out of Congress for a long time. I think my Republican and Democratic colleagues would agree with that characterization of the farm bill.

We need to move beyond the farm bill to also address other long-term economic issues that face us. We must address the issue of the clean energy future for America. Yes, we can celebrate the fact that we came together in a bipartisan way to pass the Energy bill which the President signed in December, that we did a lot to move forward with efficiency and transportation and how we use electricity and other energy in our homes and buildings, a very significant step forward in embracing the new future with biofuels for America with the quintupling of the renewable fuel standards, and we took some steps to start dealing with the issue of global warming by putting carbon sequestration in that bill. But there is a lot more to be done on energy because what is missing in that bill, and still missing today, is a jet engine that will power us into the 21st century clean energy economy, because the legislation we passed out of the Finance Committee was one vote short to get to the 60 votes to stop the filibuster that was underway.

We need to turn back to the energy legislation so we can build that long-term economic security for America.

We also have to deal with the housing crisis. We will deal perhaps with it in some minor ways when we deal with the stimulus package, but there are other pieces of legislation which a number of committees have been working on to try to deal with the housing crisis. So we need to deal with both the short-term and the long-term economic challenges we face here in America, and yet we are wrapped around the axle in terms of moving forward on this FISA bill because the Republican minority has taken the view that we can simply stall, stall, stall until the time runs out.

I think we ought to be working in good faith, consider the amendments that many of my colleagues have brought to this floor and which are being prevented from being considered so we can then get a FISA bill passed

and we can move forward with the economic issues that we need to so urgently address.

I will continue to speak more specifically about FISA and some of the very important work that both Chairman ROCKEFELLER and Vice Chairman BOND have put together in this legislation, as well as the work of Chairman LEAHY and Senator SPECTER on the Judiciary Committee, and I probably have another 10 minutes or so to go on the general legislation in support of the bill and moving forward with it, but because we are at this impasse, because we are wrapped around the axle, it seems to me a timeout is what would make sense for us then to be able to turn our attention, to pivot over to the economic issues which we have to address and which the President asked us to address last night.

In that regard, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 564, S. 2556; the bill be read a third time and passed; and the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Reserving the right to object, I thank my colleague for his courtesy and for his attention and his interest in this subject.

As I had previously stated, we have to get this bill done to replace the Protect America Act. I believe the House has passed or is considering passing a 15-day extension, which I think is long enough, and on behalf of our side, I must object to this unanimous consent request.

The PRESIDING OFFICER. Objection is heard.

The Senator from Colorado.

Mr. SALAZAR. I thank my friend from Missouri, and I look forward to the leadership that was shown by the Intelligence Committee in terms of Senators ROCKEFELLER and BOND bringing Republicans and Democrats together to fashion the legislation that is before us.

In addition to that, I think we have an opportunity to work with Senator LEAHY and the members of the Judiciary Committee to figure out the best way of moving forward to achieve the ultimate goal, which is to make sure we are protecting America. So I very much look forward to working with my good friend from Missouri and getting that done.

I don't think any Member in this Chamber would argue the fact that we need to update and extend FISA. The technologies available, surveillance methods that are now being used, and the threats that we face have changed dramatically since Congress first enacted FISA a long time ago—in 1978. Think of the attacks of the last years. September 11 illustrated in the most tragic and bloody and horrible way the great threat that extremist groups can pose to the United States. The attacks

in New York, Washington, and Pennsylvania brought the spectre of terrorism to our front door. In many ways, the innocence of America was lost on that day.

But September 11 is not the only terrorist attack that we or our allies have endured in recent years. In 2002, a bombing in Bali killed 202 people and wounded 209. In 2004—this is after 9/11—the bombs on the trains in Madrid killed 191 people and wounded over 2,000 people. And in 2005, we saw the attacks on London's underground commuter train, killing 52 and injuring 700.

I could go on with a list of violent incidents that have been caused because of terrorism around the world. The State Department reports that the number of incidents of terrorism worldwide has grown dramatically in recent years. Between 2005 and 2006, the number of incidents rose from 11,153 to 14,338. Three-fourths of those incidents—that is three-fourths of 14,338 incidents—resulted in death, injury, or kidnapping. All told, terrorism has claimed the lives of more than 74,000 people around the world in only the year 2006. That is 74,000 people, most of them innocent members of our human race, who have been killed by the scourge of terrorism around the world.

Americans understand that our intelligence and surveillance capabilities are absolutely essential to preventing these types of attacks. Our Government needs to have the power and the tools to listen in on those who are plotting an attack on the United States and our interests. They need to be able to monitor the e-mails of a terrorist suspect. They need to be able to track people, and they need to be able to track those vital networks. They need to be able to respond quickly and decisively on information that is collected to make sure that we protect the innocent from harm.

Americans want a government that can and will fulfill its primary responsibility—the responsibility of keeping its citizens safe from attack. But we also want to make sure we have a government that will not abuse the power entrusted in it. We want a government that honors the rule of law and upholds the cherished values of our Constitution. We want a government that protects the privacy of law-abiding citizens, and we want a government that is worthy of respect, not fear.

Without a doubt, the events of September 11 demanded an expansion of our intelligence-gathering capabilities. We needed to take emergency action to ensure the security of Americans over the short term. But rather than work within the authorities provided by Congress, the President and then-Attorney General John Ashcroft built their own program—the terrorist surveillance program—out of the view of Congress, out of the view of the public, in the darkness, and without oversight of the courts. They built it on their own based on some assumed authority.

The administration hid the fact that it was implementing its program in a

manner that overstepped the authorities that Congress had provided under law. It hid the fact that it could target Americans for surveillance without a warrant. There was no mention to the American people that their communications could be spied upon without a warrant or without any other kind of protection from the courts. It hid the fact that it was grabbing more power for the executive branch than our Founding Fathers would have ever thought wise in their quest to protect the civil liberties and freedoms of America.

We need to move, in my view, beyond the thinking that characterized the formation of this unlawful terrorist surveillance program within the executive branch, and we have indeed made some progress together in moving forward in a new direction. We have consolidated the information that our intelligence agencies collect, we have implemented the recommendations of the 9/11 Commission in this Congress, we have created the Department of Homeland Security, and we are now ready to bring FISA up to date with our technology in the threats we face.

Over the last few days, the administration has presented the American people with a false dichotomy. They claim we have to choose between protecting our national security on the one hand and protecting our civil liberties. That is a false dichotomy. As a former attorney general, I can tell you that we can do both. We can have a surveillance program that gives our law enforcement the tools it needs to protect America and at the same time we can make sure that we are protecting the civil liberties of the citizens of our country.

The bill before us places some simple but highly effective safeguards on the Government's surveillance program, and we should be thankful for this legislation in that regard. These safeguards will in no way impede our efforts to defeat the terrorist networks and prevent attacks on Americans. If an intelligence agency gets actionable information, it can establish surveillance immediately; no waiting for a warrant, no redtape, no delay. The agency will simply have to seek a retroactive warrant once surveillance has begun.

Mr. President, I ask unanimous consent to continue as in morning business for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALAZAR. I thank the Chair.

The bill before us places some simple but highly effective safeguards on the Government's surveillance program. These safeguards will in no way impede our efforts to defeat the terrorist networks and prevent attacks on Americans. I want to highlight a few provisions of the bill that the Intelligence Committee reported, and which are at the center of our debate this week. These provisions require the FISA Court and Congress to play a greater

role in overseeing the Nation's surveillance program. I should say a greater role and an appropriate role in overseeing the Nation's surveillance program.

First, the FISA reauthorization will require the FISA Court to review the administration's procedures for determining that the targeted surveillance is reasonably believed to be outside the United States. Second, the FISA Court must review the procedures for minimizing the identities of and information about Americans incidentally detected during the surveillance of foreign targets. Third, the court must approve or disapprove the targeting of Americans overseas under this new authority on an individual basis, based on its review of whether there is probable cause to believe the person is an agent of a foreign power. Fourth, the bill includes a 6-year sunset to allow Congress to evaluate how the new authorities are carried out, and to ensure abuses do not occur before authorities are extended further. The threats and technologies are changing so fast that Congress will need to update the legislation during that time.

Finally, the bill requires the intelligence community to conduct an annual review and requires detailed semi-annual reports to be submitted to the House and Senate Intelligence and Judiciary Committees concerning collections authorized under the bill, including instances of noncompliance.

These provisions represent a dramatic improvement to our Nation's international surveillance program, and I am pleased they are the foundation of the bill. But we can do more to strengthen the bill and do better to enforce the rule of law.

I support Senator CARDIN's amendment, which I cosponsored, to have a 4-year sunset for the bill rather than 6 years. If we learn of problems in the program, if the technologies continue to change or if the threat changes, we should have the opportunity to change the law.

Over the coming days, we will also debate how to handle the question of immunity for companies that participated in the warrantless surveillance program from 2001 until 2007.

In my view, if a company was knowingly acting in violation of existing law, the courts should review their actions to determine if there was wrongdoing. If, however, the Attorney General or an intelligence agency approached that company, and the company clearly tried to follow the law and act in good faith, it should not be held liable.

That is why I am cosponsoring Senator FEINSTEIN's amendment which establishes an independent process for reviewing whether a company should receive immunity. Under this amendment, the FISA Court would follow a three-step process for determining whether a lawsuit has merit.

Senator FEINSTEIN has proposed a smart and fair solution to this very dif-

ficult problem. The FISA reauthorization has become unnecessarily politicized, in my view. We are fully able to strengthen our Nation's international surveillance capabilities while protecting the privacy of Americans. I hope the Members of this Chamber can put the rhetoric and threats aside and move forward to assure that America is, in fact, protected, both in terms of threats against them in violence from terrorists and at the same time that we protect their civil liberties.

I hope we can pass the FISA bill soon. I hope the President will do what is right and sign it.

The Senator from Alaska.

(The remarks of Senator MURKOWSKI pertaining to the introduction of S. 2570 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. I ask unanimous consent to address the Senate as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. I thank Senator MURKOWSKI for her work. There is absolutely a need for that legislation. I appreciate what she has done.

#### ECONOMIC STIMULUS

Mr. BROWN. Last night we heard a vision that the President of the United States was standing in the Chamber of the House of Representatives speaking to all of us. He talked about how best to proceed during times of clear economic crisis, job loss, health care, energy costs soaring, threats to our domestic safety nets, and a war in Iraq with no end in sight.

When news media people asked me what I thought about the speech, one of the things I said was I wished the President could have sat in on some of the meetings that I had as I traveled Ohio in the last year, my State. I had about 80 roundtable meetings of 15, 20, 25 people in a community where for an hour and a half I would ask them questions about their communities, about their problems. In every corner of the State, I heard from veterans and first responders, from farmers, from people running small businesses, from teachers, from students, from community leaders, from mothers and fathers. I wish the President had been able to hear some of this because people clearly want to hear their Government is finally committed to change and to fighting for the middle class.

They want to hear that the economic policies of the last 7 years, policies

that have failed them, are a thing of the past and we have a new direction. They want to hear about a plan to finally bring back good-paying jobs, lower our health care and energy costs, secure our safety nets, and end the war in Iraq.

For Ohioans, the future is about change. Let's say you are driving down the road. You notice that the signs, mile markers, exit signs, billboards as huge as houses are telling you that you are going in the wrong direction: Signs saying wages stagnating, signs saying U.S. jobs being shipped overseas, a housing crisis deepening, health care costs soaring, increased dependence on foreign oil, product safety unsure, no end to the war in Iraq. The longer you stay on the road, the worse things get.

So you hit the gas pedal and head further down that road. If you drive down the road, the wrong road, long enough, does it become the right one? Of course not. You do not proudly log more miles on the wrong road. You change direction.

If there is one thing you can say about the administration and its supporters in Congress it is that they are consistent. They consistently answer to the wealthiest Americans and to the largest corporations and pay lip service to the rest of the population.

Think about last night. The President said 116 million people—if we extend the tax cuts, 116 million people will get tax cuts averaging \$1,800 a person.

Does the President really say—does that really say what the tax cuts mean? It is a very small number of people getting huge tax cuts, and tens and tens and tens of millions of Americans are getting almost nothing.

Does he say it that way? Does he tell the American people that is what it is? Of course not. He says the average American will average \$1,800 from the tax cuts. Simply, that is very misleading. We have seen that on tax policy over and over and over in this administration.

Mr. DORGAN. Mr. President, I wonder if the Senator would yield for a question.

Mr. BROWN. I will yield to the Senator.

Mr. DORGAN. Mr. President, I was going to inquire of the Senator from Ohio if he found, as I did last night, it very unusual to have the entire State of the Union Address talking about the economic difficulties in our country and the need for a stimulus plan and so on without ever mentioning the real root causes at all of what has put us in this position: For example, a \$700 billion, going to an \$800 billion-a-year trade deficit; a fiscal policy budget deficit that is going to require us to borrow \$600 billion in this fiscal year, just that combination is \$1.3 trillion in red ink, 10 percent of our GDP in 1 year.

You know, the fact is, everyone in the world, including American citizens, look at that and understand that is so far off the track there is no way that works.